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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,076	04/18/2001	David D. Hadden	1004-001	8830

27820 7590 02/12/2002

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[REDACTED] EXAMINER

COLON, CATHERINE M

ART UNIT	PAPER NUMBER
2163	

DATE MAILED: 02/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/837,076	<b>Applicant(s)</b> HADDEN ET AL
	<b>Examiner</b> C. Michelle Colon	<b>Art Unit</b> 2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 April 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-30 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 18 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

1. The following is a Non-Final Office Action in response to the communication received on April 18, 2001. Claims 1 – 30 are now pending in this application.

#### ***Information Disclosure Statement***

2. The examiner has reviewed the patents supplied in the Information Disclosure Statement (IDS) provided on September 4, 2001.

#### ***Claim Objections***

3. Claims 3, 6, 7, 8, 13 – 19, and 23 – 29 are objected to because of the following informalities: All of these claims are numbered incorrectly. If a claim is a dependent claim, then it must consecutively follow the numbering of the independent claim. For example, in claim 3 the steps should read “d” and “e” respectively, instead of “a” and “b.”

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1 – 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Nashner (U.S. 6,190,287).

As per claim 1, Nashner discloses a method comprising:

a) quantifying a first actual performance metric of an individual carrying out a defined performance before an event occurrence bearing on an actual skill level of the individual (col. 4, lines 48 – 55; Figure 1);  
b) quantifying a second actual performance metric of an individual carrying out the defined performance after the event occurrence (col. 4, lines 58 – 61; col. 5, lines 11 – 15; Figure 1);

and

c) determining a result of the event occurrence on an ability of the individual to carry out the defined performance based on the first and second actual performance metrics (col. 4, lines 58 – 61; col. 5, lines 15 – 19 and lines 41 – 44; Figure 1).

As per claim 2, Nashner discloses the method of claim 1 further comprising analyzing a relationship between the first and second actual performance metrics and the actual skill level of the individual before and after the event occurrence wherein the determining step is based on the relationship between the first and second actual

performance metrics and the actual skill level of the individual before and after the event occurrence (col. 5, lines 51 – 67; Table 1).

As per claim 3, Nashner discloses the method of claim 1 further comprising:

a) defining a role associated with a required skill having a required skill level and the defined performance (col. 6, line 63 – col. 7, line 1); and

b) associating the individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 7, lines 1 – 11; The invention as disclosed by Nashner compares the individual being evaluated with a “norm.” Furthermore, by having a reference population possessing the “norm,” the invention is associating individuals with certain skills required for certain roles and is further quantifying such characteristics.).

As per claim 4, Nashner discloses the method of claim 3 further comprising:

a) analyzing a difference between the required skill level for the role and the actual skill level of the individual (col. 7, lines 2 – 6);

b) determining if training is necessary to raise the actual skill level to the required skill level (col. 7, lines 6 – 8).

As per claim 5, Nashner discloses the method of claim 3 wherein the defining step further comprises associating a desired performance metric for the defined performance associated with the role and further comprising associating the individual having an actual performance metric correlating with the desired performance metric of the role to the role (col. 7, lines 2 – 6; Nashner discloses evaluating the individual’s performance capabilities relative to the performance goals based on the “norm.”).

As per claim 6, Nashner discloses the method of claim 1 further comprising:

- a) comparing the actual skill level of the individual before and after the event occurrence (col. 7, lines 9 – 10); and
- b) correlating any difference between the actual skill level of the individual before and after the event occurrence with the ability of the individual to carry out the defined performance (col. 7, lines 11 – 12; Table 2).

As per claim 7, Nashner discloses the method of claim 1 further comprising:

- a) comparing the actual skill level of the individual before and after the event occurrence with the first and second actual performance metrics (col. 7, lines 2 – 11); and
- b) determining a result of changes in the actual skill level of the individual before and after the event occurrence on the ability of the individual to carry out the defined performance (col. 7, line 27 – col. 8, line 11).

As per claim 8, Nashner discloses the method of claim 1 wherein the event occurrence is a training event bearing on the actual skill level of the individual and further comprising:

- a) quantifying a first actual performance metric of a second individual carrying out the defined performance before the training event (col. 6, line 63 – col. 7, line 1; col. 8, lines 62 – 67; The invention as disclosed by Nashner compares the individual being evaluated with a reference population “norm.” In doing so, the invention is associating a group of individuals with certain skills required for certain roles and is further quantifying such characteristics.);

b) quantifying a second actual performance metric of the second individual carrying out the defined performance after the training event, wherein the second individual is not subjected to the training event (col. 6, line 63 – col. 7, line 1; col. 8, lines 62 – 67; The invention as disclosed by Nashner compares the individual being evaluated with a reference population “norm.” In doing so, the invention is associating a group of individuals with certain skills required for certain roles and is further quantifying such characteristics. Furthermore, the group of individuals are not subjected to the training.); and

c) comparing the first and second actual performance metrics of the second individual with the first and second actual performance metrics of the individual to determine effectiveness of the training event on the actual skill level (col. 7, lines 2 – 11).

As per claim 9, Nashner discloses the method of claim 1 further comprising:

a) identifying an increase between the first and second actual performance metrics of the individual and the second individual (col. 7, lines 42 – 48; Table 2);

and

b) indicating an influence other than the training event causing the increase between the first and second actual performance metrics of the individual and the second individual (col. 6, lines 63 – 67; Tables 1 and 2).

As per claim 10, Nashner discloses a method comprising:

a) defining a role associated with a required skill having a required skill level and requiring a defined performance (col. 6, line 63 – col. 7, line 1; col. 8, lines 27 – 28);

- b) associating an individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 8, lines 22 – 27);
- c) quantifying a first actual performance metric of the individual carrying out the defined performance before training (col. 7, lines 2 – 6);
- d) quantifying a second actual performance metric of the individual carrying out the defined performance after the training (col. 7, lines 9 – 11; col. 8, lines 22 – 32);
- e) analyzing a relationship between the first and second actual performance metrics before and after the training (col. 7, lines 11 – 12; col. 8, lines 56 – 59); and
- f) determining a result of the training on the actual performance metric associated with the individual carrying out the defined performance of the role (col. 8, lines 53 – 64).

As per claim 11, Nashner discloses a computer readable medium comprising software for instructing a computer to:

- a) quantify a first actual performance metric of an individual carrying out a defined performance before an even occurrence bearing on an actual skill level of the individual (col. 4, lines 48 – 55; Figures 1 and 2);
- b) quantify a second actual performance metric of the individual carrying out the defined performance after the event occurrence (col. 4, lines 58 – 61; col. 5, lines 11 – 15; Figures 1 and 2);

and

c) determine a result of the event occurrence on an ability of the individual to carry out the defined performance based on the first and second actual performance metrics (col. 4, lines 58 – 61; col. 5, lines 15 – 19 and lines 41 – 44; Figures 1 and 2).

As per claim 12, Nashner discloses the computer readable medium of claim 11 further comprising instructions to analyze a relationship between the first and second actual performance metrics and the actual skill level of the individual before and after the event occurrence and determine the result based at least partially on the relationship between the first and second actual performance metrics and the actual skill level of the individual before and after the event occurrence (col. 5, lines 51 – 67; Table 1).

As per claim 13, Nashner discloses the computer readable medium of claim 11 further comprising instructions to:

a) define a role associated with a required skill having a required skill level and the defined performance (col. 6, line 63 – col. 7, line 1); and

b) associate the individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 5, lines 6 – 27; col. 7, lines 1 – 11; The invention as disclosed by Nashner compares the individual being evaluated with a “norm.” Furthermore, by having a reference population possessing the “norm,” the invention is associating individuals with certain skills required for certain roles and is further quantifying such characteristics.

As per claim 14, Nashner discloses the computer readable medium of claim 13 further comprising instructions to:

- a) analyze a difference between the required skill level for the role and the actual skill level of the individual (col. 7, lines 2 – 6);
- b) determine if training is necessary to raise the actual skill level to the required skill level (col. 7, lines 6 – 8).

As per claim 15, Nashner discloses the computer readable medium of claim 13 further comprising instructions to:

- a) further define the role by associating a desired performance metric for the defined performance associated with the role (col. 8, lines 62 – 67; Table 2); and
- b) associate the individual having an actual performance metric correlating with the desired performance metric of the role to the role (col. 7, lines 2 – 6; Table 2; Nashner discloses evaluating the individual's performance capabilities relative to the performance goals based on the reference population "norm.")

As per claim 16, Nashner discloses the computer readable medium of claim 11 further comprising instructions to:

- a) compare the actual skill level of the individual before and after the event occurrence (col. 7, lines 9 – 10); and
- b) correlate any difference between the actual skill level of the individual before and after the event occurrence with the ability of the individual to carry out the defined performance (col. 7, lines 11 – 12; Table 2).

As per claim 17, Nashner discloses the computer readable medium of claim 11 further comprising instructions to:

a) compare the actual skill level of the individual before and after the event occurrence with the first and second actual performance metrics (col. 7, lines 2 – 11);

and

b) determine a result of changes in the actual skill level of the individual before and after the event occurrence on the ability of the individual to carry out the defined performance (col. 7, line 27 – col. 8, line 11).

As per claim 18, Nashner discloses the computer readable medium of claim 11 wherein the event occurrence is a training event bearing on the actual skill level of the individual and further comprising instructions to:

a) quantify a first actual performance metric of a second individual carrying out the defined performance before the training event (col. 6, line 63 – col. 7, line 1; col. 8, lines 62 – 67; The invention as disclosed by Nashner compares the individual being evaluated with a reference population “norm.” In doing so, the invention is associating a group of individuals with certain skills required for certain roles and is further quantifying such characteristics.);

b) quantify a second actual performance metric of the second individual carrying out the defined performance after the training event, wherein the second individual is not subjected to the training event (col. 6, line 63 – col. 7, line 1; col. 8, lines 62 – 67; The invention as disclosed by Nashner compares the individual being evaluated with a reference population “norm.” In doing so, the invention is associating a group of individuals with certain skills required for certain roles and is further quantifying such

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characteristics. Furthermore, the group of individuals are not subjected to the training.); and

c) compare the first and second actual performance metrics of the second individual with the first and second actual performance metrics of the individual to determine effectiveness of the training event on the actual skill level (col. 7, lines 2 – 11).

As per claim 19, Nashner discloses the computer readable medium of claim 11 further comprising instructions to:

a) identify an increase between the first and second actual performance metrics of the individual and the second individual (col. 7, lines 42 – 48; Table 2);

and

b) indicate an influence other than the training event causing the increase between the first and second actual performance metrics of the individual and the second individual (col. 6, lines 63 – 67; Tables 1 and 2).

As per claim 20, Nashner discloses a computer readable medium comprising software for instructing a computer to:

a) define a role associated with a required skill having a required skill level and requiring a defined performance (col. 6, line 63 – col. 7, line 1; col. 8, lines 27 – 28; Figures 1 and 2);

b) associate an individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 8, lines 22 – 27; Figures 1 and 2);

- c) quantify a first actual performance metric of the individual carrying out the defined performance before training (col. 7, lines 2 – 6; Figures 1 and 2);
- d) quantify a second actual performance metric of the individual carrying out the defined performance after the training (col. 7, lines 9 – 11; col. 8, lines 22 – 32; Figures 1 and 2);
- e) analyze a relationship between the first and second actual performance metrics before and after the training (col. 7, lines 11 – 12; col. 8, lines 56 – 59; Figures 1 and 2); and
- f) determine a result of the training on the actual performance metric associated with the individual carrying out the defined performance of the role (col. 8, lines 53 – 64; Figures 1 and 2).

As per claim 21, Nashner discloses a system comprising:

- a) a user interface (Figures 2 and 3); and
- b) a central processing unit associated with the user interface and adapted to:
  - i. quantify a first actual performance metric of an individual carrying out a defined performance before an event occurrence bearing on an actual skill level of the individual (col. 4, lines 48 – 55; Figures 1 and 2);
  - ii. quantify a second actual performance metric of the individual carrying out the defined performance after the event occurrence (col. 4, lines 58 – 61; col. 5, lines 11 – 15; Figures 1 and 2); and

iii. determine a result of the event occurrence on an ability of the individual to carry out the defined performance based one the first and second actual performance metrics (col. 4, lines 58 – 61; col. 5, lines 15 – 19 and lines 41 – 44; Figures 1 and 2).

As per claim 22, Nashner discloses the system of claim 21 wherein the central processing unit is further adapted to analyze a relationship between the first and second actual performance metrics and the actual skill level of the individual before and after the event occurrence and determine the result based at least partially on the relationship between the first and second actual performance metrics and the actual skill level of the individual before and after the event occurrence (col. 5, lines 51 – 67; Table 1).

As per claim 23, Nashner discloses the system of claim 21 wherein the central processing unit is further adapted to:

a) define a role associated with a required skill having a required skill level and the defined performance (col. 6, line 63 – col. 7, line 1); and

b) associate the individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 5, lines 6 – 27; col. 7, lines 1 – 11; The invention as disclosed by Nashner compares the individual being evaluated with a “norm.” Furthermore, by having a reference population possessing the “norm,” the invention is associating individuals with certain skills required for certain roles and is further quantifying such characteristics.

As per claim 24, Nashner discloses the system of claim 23 wherein the central processing unit is further adapted to:

- a) analyze a difference between the required skill level for the role and the possessed skill level of the individual (col. 7, lines 2 – 6);
- b) determine if training is necessary to raise the actual skill level to the required skill level (col. 7, lines 6 – 8).

As per claim 25, Nashner discloses the system of claim 23 wherein the central processing unit is further adapted to:

- a) further define the role by associating a desired performance metric for the defined performance associated with the role (col. 8, lines 62 – 67; Table 2); and
- b) associate the individual having an actual performance metric correlating with the desired performance metric of the role to the role (col. 7, lines 2 – 6; Table 2; Nashner discloses evaluating the individual's performance capabilities relative to the performance goals based on the reference population "norm.")

As per claim 26, Nashner discloses the system of claim 21 wherein the central processing unit is further adapted to:

- a) compare the actual skill level of the individual before and after the event occurrence (col. 7, lines 9 – 10); and
- b) correlate any difference between the actual skill level of the individual before and after the event occurrence with the ability of the individual to carry out the defined performance (col. 7, lines 11 – 12; Table 2).

As per claim 27, Nashner discloses the system of claim 21 wherein the central processing unit is further adapted to:

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a) compare the actual skill level of the individual before and after the event occurrence with the first and second actual performance metrics (col. 7, lines 2 – 11);

and

b) determine a result of changes in the actual skill level of the individual before and after the event occurrence on the ability of the individual to carry out the defined performance (col. 7, line 27 – col. 8, line 11).

As per claim 28, Nashner discloses the system of claim 21 wherein the event occurrence is a training event bearing on the actual skill level of the individual and the central processing unit is further adapted to:

a) quantify a first actual performance metric of a second individual carrying out the defined performance before the training event (col. 6, line 63 – col. 7, line 1; col. 8, lines 62 – 67; The invention as disclosed by Nashner compares the individual being evaluated with a reference population “norm.” In doing so, the invention is associating a group of individuals with certain skills required for certain roles and is further quantifying such characteristics.);

b) quantify a second actual performance metric of the second individual carrying out the defined performance after the training event, wherein the second individual is not subjected to the training event (col. 6, line 63 – col. 7, line 1; col. 8, lines 62 – 67; The invention as disclosed by Nashner compares the individual being evaluated with a reference population “norm.” In doing so, the invention is associating a group of individuals with certain skills required for certain roles and is further quantifying such

characteristics. Furthermore, the group of individuals are not subjected to the training.); and

c) compare the first and second actual performance metrics of the second individual with the first and second actual performance metrics of the individual to determine effectiveness of the training event on the actual skill level (col. 7, lines 2 – 11).

As per claim 29, Nashner discloses the system of claim 21 wherein the central processing unit is further adapted to:

a) identify an increase between the first and second actual performance metrics of the individual and the second individual (col. 7, lines 42 – 48; Table 2);

and

b) indicate an influence other than the training event causing the increase between the first and second actual performance metrics of the individual and the second individual (col. 6, lines 63 – 67; Tables 1 and 2).

As per claim 30, Nashner discloses a system comprising:

a) means for defining a role associated with a required skill having a required skill level and requiring a defined performance (col. 6, line 63 – col. 7, line 1; col. 8, lines 27 – 28; Figures 1 and 2);

b) means for associating an individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 8, lines 22 – 27; Figures 1 and 2);

c) means for quantifying a first actual performance metric of the individual carrying out the defined performance before training (col. 7, lines 2 – 6; Figures 1 and 2);

d) means for quantifying a second actual performance metric of the individual carrying out the defined performance after the training (col. 7, lines 9 – 11; col. 8, lines 22 – 32; Figures 1 and 2);

e) means for analyzing a relationship between the first and second actual performance metrics before and after the training (col. 7, lines 11 – 12; col. 8, lines 56 – 59; Figures 1 and 2); and

f) means for determining a result of the training on the actual performance metric associated with the individual carrying out the defined performance of the role (col. 8, lines 53 – 64; Figures 1 and 2).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Nagler et al. (U.S. 2001/0039508) discuss an apparatus and method to provide objective attributes scoring and matching between the attributes;
- Taub (U.S. 6,341,267) discusses processes for evaluating, matching, and fostering individuals' behavioral capabilities to the requirements for successful human performance;
- Haq et al. (U.S. 6,275,812) discuss a system and method for human resource skill management, training, career development, etc;
- Puram et al. (U.S. 6,289,340) discuss a system and method for selecting a candidate from a pool of candidates to fill a position based on the skills held by the candidate.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 703-605-4251. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 703-305-9643.

The fax numbers for the organization where this application or proceeding is assigned are as follows:

703-746-7238 [After Final Communication]

703-746-7239 [Official Communications]

703-746-7240 [For status inquiries, draft communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*CMC*

CMC

February 7, 2002

*TARIQ R. HAFIZ*  
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